

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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KA 11-02372

PRESENT: SMITH, J.P., FAHEY, CARNI, SCONIERS, AND VALENTINO, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JEROME A. THAGARD, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (ALAN WILLIAMS OF COUNSEL), FOR DEFENDANT-APPELLANT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (MICHAEL J. HILLERY OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Erie County (Richard C. Kloch, Sr., A.J.), rendered April 12, 2010. The judgment convicted defendant, upon a jury verdict, of murder in the second degree and criminal possession of a weapon in the second degree.

It is hereby ORDERED that said appeal is unanimously dismissed.

Memorandum: We are advised that, by order dated December 9, 2013, Supreme Court granted defendant's motion to vacate the judgment of conviction pursuant to CPL 440.10. Thus, defendant's direct appeal from the judgment of conviction must be dismissed as moot (see *People v Mills*, 5 AD3d 1051, 1051; see also *People v James*, 212 AD2d 822, 822; *People v Pimental*, 189 AD2d 788, 788).

Entered: March 28, 2014

Frances E. Cafarell
Clerk of the Court